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Joga Ram Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Oct-04-1978

Reported in : 1978WLN(UC)348

Judge : Kanta Bhatnagar, J.

Appeal No. : S.B. Criminal Revision Petition No. 116/1978

Appellant : Joga Ram

Respondent : State of Rajasthan

Judgement :

Kanta Bhatnagar, J.

1. This revision petition has been filed against the judgment of the learned Sessions Judge, Balotra dated April 6, 1978.

2. The accused-appellant was convicted and sentenced Under Sections 457 and 380, Indian Penal Code, by the learned Munsiff and judicial Magistrate, Balotra on July 29, 1977. He was sentenced to one year's rigorous imprisonment and a fine of Rs. 100/-; in default to undergo one month's further rigorous imprisonment on two counts with an order that both the substantive sentences will run concurrently. Against the judgment of the learned Magistrate the accused-petitiones preferred an appeal in the Sessions Court, Balotra and the learned Sessions Judge by his

judgment dated April 6, 1978 dismissed the same. Before the learned Sessions Judge the point for consideration raised was that the accused at the time of the alleged commission of the crime was below 21 years of age, hence he may be given benefit under the Probation of Offenders Act. The argument did not find favour with the learned Sessions Judge in view of the fact that the accused at the time of the passing of the judgment by the learned Magistrate had attained the age of 21 years. Advancing arguments on the revision petition the learned Counsel for the petitioner contended that the certificate produced by the accused shows his date of birth to be July 15, 1956, and the judgment by the learned Magistrate was passed on July 29, 1977. Hence it was only a few days before the judgment that the accused had attained the age of 21 years on June 27, 1976. According to him on June 27, 1976, the date of the alleged occurrence, the accused was decidedly below 21 years of age and therefore a lenient view should be taken in the matter. The learned Public Prosecutor fairly concedes to the position that the age of the accused was just at the border line for entitling him to the benefit under the Probation of Offenders Act, but his contention is that the matter is a serious one, and there was no illegality in the judgment pissed by the learned Sessions Judge in refusing this benefit to the accused.

3. I have perused the record. The learned Magistrate recording the statement of the accused Under Section 313, Code of Criminal Procedure, has not given has estimate about the age of the accused and the accused while deposing has stated to be 20 years only. This revision petition having been filed the report of the probation officer was called and from it is deducible that the accused is a boy of good conduct having no bad history. In view of the fact that the accused had attained the age of 21 pears only a few days prior to 1 he passing of the judgment, lam of the opinion that this is a lit case in which the accused, who has no previous conviction to his credit, should be given benefit Under Section 4 of the Probation of Offenders Act so that he may get an opportunity to reform himself Hence while maintaining the conviction of the accused it is ordered that instead of his being sentenced to imprisonment he will furnish personal bond of Rs. 2, 000/- (Rupees Two Thousand) and one surety of equal amount to the satisfaction of the Munsiff and Judicial Magistrate, Balotra to maintain peace for a period of two years and be of good behaviour during that period. The order regarding the disposal of the

property is maintained. The learned Counsel for the petitioner submits that he will inform the accused petitioner to furnish the surety bond as ordered for which he prays for one month's time. Time-prayed for is granted.

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